



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

upheld, the court relying on the decision⁴ of the Supreme Court of the United States sustaining the constitutionality of the Iowa cigarette law. The tax clauses of the Iowa "Red Light Law" and the Washington statute, which is modeled after it, have substantially the same provisions as the cigarette law. From the fact that the clause⁵ about which most of the litigation has centered is not contained in the California law, it seems that the approval of the California voters is all that is needed to make it effective. The constitutional questions involving due process of law,⁶ equal protection of the laws,⁷ right to jury trial,⁸ and impairment of the obligation of contracts,⁹ although considered, seem to have been viewed as well settled.

G. H. G.

CONTRACTS: VALIDITY OF CONTRACTS FOR SERVICES IN CONNECTION WITH ELECTIONS.—In *Stirtan v. Blethen*¹ the Supreme Court of Washington held that a secret contract by which the plaintiff agreed to institute and carry on a movement looking to the recall of certain municipal officers, keeping the defendant's connection therewith secret, the defendant agreeing to finance the project, was against public policy and void, regardless of the motives of the parties. The decision is clearly in line with the weight of authority. The courts must refuse to consider motive where the tendency to corruption and injury to the public interest is obvious, as it plainly is in such cases as the present.² All contracts for the sale of one's personal influence at an election of any kind are against public policy,³ regardless of motive, or of the secrecy or openness of the transaction. This applies to influence to be exercised through the newspapers as well as by personal solicitation.⁴ There is, of course, no question but that agreements relating to mere routine employment, whether mechanical, clerical or professional, are valid,⁵ the principle involved being the same

⁴ *Hodge v. Muscatine County* (1905), 196 U. S. 276, 25 Sup. Ct. Rep. 237, 49 L. Ed. 477.

⁵ Because the tax clause provided that a portion of the tax should go to the prosecuting attorney, that clause alone was held unconstitutional as being in conflict with a special provision of the constitution requiring all penalties to be paid into a specific fund in *State v. Fanning* (Neb., May 4, 1914), 147 N. W. 215.

⁶ *State v. Fanning*, supra; *State v. Lane* and *State v. Gilbert et al.*, supra, note 3.

⁷ *State v. Fanning*, supra, note 5.

⁸ *State v. Fanning*, supra, note 5; *State v. Gilbert et al.*, supra, note 3.

⁹ *State v. Lane*, supra, note 3.

¹ (Wash., Mar. 27, 1914), 139 Pac. 618.

² *Tool Co. v. Norris* (1864), 69 U. S. (2 Wall.) 45.

³ *Nichols v. Mudgett* (1860), 32 Vt. 546; *Keating v. Hyde* (1886), 23 Mo. App. 555.

⁴ *Livingston v. Page* (1902), 74 Vt. 356, 52 Atl. 965, 59 L. R. A. 336.

⁵ *Hurley v. Van Wagner* (1858), 28 Barb. 109.

as in contracts for services to be rendered in connection with the passage of legislation.⁶

The question naturally arises as to whether this restriction extends to contracts to act as another's agent in the conduct of a recall or other election, to write editorials, to make speeches or to canvass for signatures to the petitions required by law. In so far as such agreements involve the sale of personal influence they are opposed to public policy, and it would seem that the mere act of taking charge of a recall movement, or writing newspaper articles, even though openly done in behalf of another, is a lending of one's prestige and influence in the community such as cannot legally be bargained for. Making campaign speeches also involves the same exercise of personal influence since such speeches derive their effect from the eloquence and personality of the speaker. There is one case⁷ holding that a contract to make speeches in support of another's candidacy for vice-president is legal; but a Tennessee case⁸ holds that a contract to work for another's election, organizing clubs and making speeches in favor of the defendant's candidacy, is illegal. No distinction was drawn between any of the services there involved and the case seems to accord better with the other authorities on public policy in respect to elections than the New York case.

Canvassing for signatures to a petition is nearer to the borderline but it seems that even here the acts done involve the use of personal influence and talents. Theoretically at least, a voter signs such petitions only after due reflection and upon being convinced of their expediency, and so the securing of such signatures is not a mere routine employment, like mailing circulars, or similar services. In an early Pennsylvania case⁹ it was held that a contract to secure signatures to a petition for a pardon, at a certain sum for each signature, was against public policy. The character of the service rendered in each case is very much the same, the only difference being in the effect of the petition itself.

It is probable that a different rule would prevail in California. It has been held in this state¹⁰ that personal solicitation of legislators for the passage of a bill does not constitute "lobbying" so long as no secret or corrupt means are employed. As public policy is equally opposed to the sale of personal influence, whether in connection with legislation or at elections, it is probable that in

⁶ *Trist v. Child* (1874), 88 U. S. (21 Wall.) 441, *Williston's Cases on Contracts*, vol. II, p. 477.

⁷ *Murphy v. English* (1863), 64 How. Prac. 362; but see *Jackson v. Walker* (1843), 5 Hill 27; *Foley v. Spier* (1885), 100 N. Y. 552, 3 N. E. 477, decided under statute.

⁸ *Whitman v. Ewin* (Tenn. 1897), 39 S. W. 742.

⁹ *Hatzfield v. Gulden* (1838), 7 Watts 152.

¹⁰ *Miles v. Thorn* (1869), 38 Cal. 335, 99 Am. Dec. 384; *Foltz v. Cogswell* (1890), 86 Cal. 542, 25 Pac. 60.

this state such contracts as we have been considering would be valid if the interest of the agent was disclosed to the parties concerned. However the principal case would be followed even in California on account of the secrecy there involved.¹¹ The California rule as to lobbying contracts is anomalous¹² and has little to commend it. The evil in such matters lies in the use of personal influence from mercenary motives rather than in the secrecy of such use, although under special statutes making secret lobbying a crime this may be an essential element.¹³ As was said in the Tennessee case already referred to,¹⁴ one's influence and political talents "should be preserved and protected, unbought and unpurchasable, for the benefit of the state and the public weal".

J. S. M., Jr.

DEDICATION: VOID RESERVATION OF RIGHTS IN A STREET¹.—When land is dedicated to the public for highway purposes, the donor frequently attempts to reserve to himself various rights apart from those which he would enjoy in common with other members of the community. The validity of these reservations depends upon the effect which they have on the governmental powers of the municipal corporation, the question generally being one of public policy. It has been held, for instance, that a reservation providing that the lots bordering upon the dedicated street should be exempt from charges for the improvement of such street unless a majority of the abutting owners should assent thereto in writing, is void.²

The general rule is that the donor cannot attach to his dedication any reservation which will impair the police power of the municipality, which will take the control of the street from the duly authorized public officers, or which will destroy its chief characteristics as a highway. Recognizing the limitation that the control of the streets must remain in the municipality, it has been held that a deed dedicating a street to the use of the public and at the same time granting the street to the county, gave the county no rights in the street.³ The court in that case says, " . . . a proprietor, laying off an addition to an incorporated town or city, cannot confer upon some other public corporation rights in and control over the streets and alleys".

¹¹ *Miles v. Thorn* (1869), 38 Cal. 335, 99 Am. Dec. 384; *Foltz v. Cogswell* (1890), 86 Cal. 542, 25 Pac. 60. See also *Marshall v. B. & O. R. Co.* (1853), 57 U. S. (16 How.) 314.

¹² *Houlton v. Dunn* (Minn., 1895), 30 L. R. A. 737, n.

¹³ *Sweeney v. McLeod* (1887), 15 Oreg. 330, 15 Pac. 275.

¹⁴ *Whitman v. Ewin* (Tenn. 1897), 39 S. W. 742.

¹ This note does not include the reservation of the right to operate an utility existing upon the highway at the time of dedication.

² *Richards v. Cincinnati* (1877), 31 Ohio St. 506.

³ *City of Des Moines v. Hall* (1868), 24 Iowa 234.